

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:92CR21

UNITED STATES OF AMERICA

VS.

HAROLD LEE SMITH

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ORDER

THIS MATTER is before the Court *sua sponte*.

The Defendant received an amended sentence of 360 months imprisonment along with two concurrent terms of 240 months imprisonment on March 15, 2000, for conspiracy to possess with intent to distribute cocaine base and two counts of distribution of cocaine base. On June 23, 2009, the Probation Office filed a Supplement to the Defendant's presentence report pursuant to the Crack Cocaine Guideline Amendment.

Supplement to the Presentence Report, filed June 23, 2009. The Probation Office advises that because Defendant's offense level remains at 41, the guideline range is not changed. ***Id. at 2.*** Additionally, because Defendant was involved with 10 to 15 kilograms of cocaine base,

Amendment 706 does not provide for sentence reductions where drug amounts are in excess of 4.5 kilograms. *Id.* Because this recommendation is adverse to the Defendant, the Court will require counsel be appointed to represent the Defendant and appointed counsel shall file an appropriate response.

IT IS, THEREFORE, ORDERED that the Federal Defender appoint counsel for the Defendant forthwith.

IT IS FURTHER ORDERED that appointed counsel file response to the Supplement to the Presentence Report within 30 days from entry of this Order.

The Clerk is directed to provide appointed counsel with a copy of this Order.

Signed: June 30, 2009

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

